

1 AN ACT concerning stormwater.

2 Be it enacted by the People of the State of Illinois,  
3 represented in the General Assembly:

4 Section 5. The Counties Code is amended by changing  
5 Section 5-1062 as follows:

6 (55 ILCS 5/5-1062) (from Ch. 34, par. 5-1062)  
7 Sec. 5-1062. Stormwater management.

8 (a) The purpose of this Section is to allow management  
9 and mitigation of the effects of urbanization on stormwater  
10 drainage in metropolitan counties located in the area served  
11 by the Northeastern Illinois Planning Commission, and  
12 references to "county" in this Section shall apply only to  
13 those counties. This Section does shall not apply to any  
14 county with a population in excess of 1,500,000, except as  
15 provided in subsection (c). The purpose of this Section shall  
16 be achieved by:

17 (1) consolidating the existing stormwater  
18 management framework into a united, countywide structure;

19 (2) setting minimum standards for floodplain and  
20 stormwater management; and

21 (3) preparing a countywide plan for the management  
22 of stormwater runoff, including the management of natural  
23 and man-made drainageways. The countywide plan may  
24 incorporate watershed plans.

25 (b) A stormwater management planning committee shall be  
26 established by county board resolution, with its membership  
27 consisting of equal numbers of county board and municipal  
28 representatives from each county board district, and such  
29 other members as may be determined by the county and  
30 municipal members. However, if the county has more than 6  
31 county board districts, the county board may by ordinance

1 divide the county into not less than 6 areas of approximately  
2 equal population, to be used instead of county board  
3 districts for the purpose of determining representation on  
4 the stormwater management planning committee.

5 The county board members shall be appointed by the  
6 chairman of the county board. Municipal members from each  
7 county board district or other represented area shall be  
8 appointed by a majority vote of the mayors of those  
9 municipalities which have the greatest percentage of their  
10 respective populations residing in such county board district  
11 or other represented area. All municipal and county board  
12 representatives shall be entitled to a vote; the other  
13 members shall be nonvoting members, unless authorized to vote  
14 by the unanimous consent of the municipal and county board  
15 representatives. A municipality that is located in more than  
16 one county may choose, at the time of formation of the  
17 stormwater management planning committee and based on  
18 watershed boundaries, to participate in the stormwater  
19 management planning program of either or both of the  
20 counties. Subcommittees of the stormwater management planning  
21 committee may be established to serve a portion of the county  
22 or a particular drainage basin that has similar stormwater  
23 management needs. The stormwater management planning  
24 committee shall adopt by-laws, by a majority vote of the  
25 county and municipal members, to govern the functions of the  
26 committee and its subcommittees. Officers of the committee  
27 shall include a chair and vice chair, one of whom shall be a  
28 county representative and one a municipal representative.

29 The principal duties of the committee shall be to develop  
30 a stormwater management plan for presentation to and approval  
31 by the county board, and to direct the plan's implementation  
32 and revision. The committee may retain engineering, legal and  
33 financial advisors and inspection personnel. The committee  
34 shall meet at least quarterly and shall hold at least one

1 public meeting during the preparation of the plan and prior  
2 to its submittal to the county board.

3 (c) In the preparation of a stormwater management plan,  
4 a county stormwater management planning committee shall  
5 coordinate the planning process with each adjoining county to  
6 ensure that recommended stormwater projects will have no  
7 significant impact on the levels or flows of stormwaters in  
8 inter-county watersheds or on the capacity of existing and  
9 planned stormwater retention facilities. An adopted  
10 stormwater management plan shall identify steps taken by the  
11 county to coordinate the development of plan recommendations  
12 with adjoining counties.

13 (d) Before the stormwater management planning committee  
14 recommends to the county board a stormwater management plan  
15 for the county or a portion thereof, it shall submit the plan  
16 to the Office of Water Resources of the Department of Natural  
17 Resources and to the Northeastern Illinois Planning  
18 Commission for review and recommendations. The Office and  
19 the Commission, in reviewing the plan, shall consider such  
20 factors as impacts on the levels or flows in rivers and  
21 streams and the cumulative effects of stormwater discharges  
22 on flood levels. The Office of Water Resources shall  
23 determine whether the plan or ordinances enacted to implement  
24 the plan complies with the requirements of subsection (f).  
25 Within a period not to exceed 60 days, the review comments  
26 and recommendations shall be submitted to the stormwater  
27 management planning committee for consideration. Any  
28 amendments to the plan shall be submitted to the Office and  
29 the Commission for review.

30 (e) Prior to recommending the plan to the county board,  
31 the stormwater management planning committee shall hold at  
32 least one public hearing thereon and shall afford interested  
33 persons an opportunity to be heard. The hearing shall be  
34 held in the county seat. Notice of the hearing shall be

1 published at least once no less than 15 days in advance  
2 thereof in a newspaper of general circulation published in  
3 the county. The notice shall state the time and place of the  
4 hearing and the place where copies of the proposed plan will  
5 be accessible for examination by interested parties. If an  
6 affected municipality having a stormwater management plan  
7 adopted by ordinance wishes to protest the proposed county  
8 plan provisions, it shall appear at the hearing and submit in  
9 writing specific proposals to the stormwater management  
10 planning committee. After consideration of the matters  
11 raised at the hearing, the committee may amend or approve the  
12 plan and recommend it to the county board for adoption.

13 The county board may enact the proposed plan by  
14 ordinance. If the proposals for modification of the plan  
15 made by an affected municipality having a stormwater  
16 management plan are not included in the proposed county plan,  
17 and the municipality affected by the plan opposes adoption of  
18 the county plan by resolution of its corporate authorities,  
19 approval of the county plan shall require an affirmative vote  
20 of at least two-thirds of the county board members present  
21 and voting. If the county board wishes to amend the county  
22 plan, it shall submit in writing specific proposals to the  
23 stormwater management planning committee. If the proposals  
24 are not approved by the committee, or are opposed by  
25 resolution of the corporate authorities of an affected  
26 municipality having a municipal stormwater management plan,  
27 amendment of the plan shall require an affirmative vote of at  
28 least two-thirds of the county board members present and  
29 voting.

30 (f) The county board may prescribe by ordinance  
31 reasonable rules and regulations for floodplain management  
32 and for governing the location, width, course and release  
33 rate of all stormwater runoff channels, streams and basins in  
34 the county, in accordance with the adopted stormwater

1 management plan. These rules and regulations shall, at a  
2 minimum, meet the standards for floodplain management  
3 established by the Office of Water Resources and the  
4 requirements of the Federal Emergency Management Agency for  
5 participation in the National Flood Insurance Program.

6 (g) In accordance with, and if recommended in, the  
7 adopted stormwater management plan, the county board may  
8 adopt a schedule of fees as may be necessary to mitigate the  
9 effects of increased stormwater runoff resulting from new  
10 development. The fees shall not exceed the cost of  
11 satisfying the onsite stormwater retention or detention  
12 requirements of the adopted stormwater management plan. The  
13 fees shall be used to finance activities undertaken by the  
14 county or its included municipalities to mitigate the effects  
15 of urban stormwater runoff by providing regional stormwater  
16 retention or detention facilities, as identified in the  
17 county plan. All such fees collected by the county shall be  
18 held in a separate fund, and shall be expended only in the  
19 watershed within which they were collected.

20 (h) For the purpose of implementing this Section and for  
21 the development, design, planning, construction, operation  
22 and maintenance of stormwater facilities provided for in the  
23 stormwater management plan, a county board that has  
24 established a stormwater management planning committee  
25 pursuant to this Section may cause an annual tax of not to  
26 exceed 0.20% of the value, as equalized or assessed by the  
27 Department of Revenue, of all taxable property in the county  
28 to be levied upon all the taxable property in the county.  
29 The tax shall be in addition to all other taxes authorized by  
30 law to be levied and collected in the county and shall be in  
31 addition to the maximum tax rate authorized by law for  
32 general county purposes. The 0.20% limitation provided in  
33 this Section may be increased or decreased by referendum in  
34 accordance with the provisions of Sections 18-120, 18-125,

1 and 18-130 of the Property Tax Code.

2 Any revenues generated as a result of ownership or  
3 operation of facilities or land acquired with the tax funds  
4 collected pursuant to this subsection (h) shall be held in a  
5 separate fund and be used either to abate such property tax  
6 or for implementing this Section.

7 However, unless at least part of the county has been  
8 declared after July 1, 1986 by presidential proclamation to  
9 be a disaster area as a result of flooding, the tax  
10 authorized by this subsection (h) shall not be levied until  
11 the question of its adoption, either for a specified period  
12 or indefinitely, has been submitted to the electors thereof  
13 and approved by a majority of those voting on the question.  
14 This question may be submitted at any election held in the  
15 county after the adoption of a resolution by the county board  
16 providing for the submission of the question to the electors  
17 of the county. The county board shall certify the resolution  
18 and proposition to the proper election officials, who shall  
19 submit the proposition at an election in accordance with the  
20 general election law. If a majority of the votes cast on the  
21 question is in favor of the levy of the tax, it may  
22 thereafter be levied in the county for the specified period  
23 or indefinitely, as provided in the proposition. The question  
24 shall be put in substantially the following form:

25 -----  
26 Shall an annual tax be levied  
27 for stormwater management purposes YES  
28 (for a period of not more than  
29 ..... years) at a rate not exceeding -----  
30 .....% of the equalized assessed  
31 value of the taxable property of NO  
32 ..... County?  
33 -----

34 (i) Upon the creation and implementation of a county

1 stormwater management plan, the county may petition the  
2 circuit court to dissolve any or all drainage districts  
3 created pursuant to the Illinois Drainage Code or predecessor  
4 Acts which are located entirely within the area of the county  
5 covered by the plan.

6 However, any active drainage district implementing a plan  
7 that is consistent with and at least as stringent as the  
8 county stormwater management plan may petition the stormwater  
9 management planning committee for exception from dissolution.  
10 Upon filing of the petition, the committee shall set a date  
11 for hearing not less than 2 weeks, nor more than 4 weeks,  
12 from the filing thereof, and the committee shall give at  
13 least one week's notice of the hearing in one or more  
14 newspapers of general circulation within the district, and in  
15 addition shall cause a copy of the notice to be personally  
16 served upon each of the trustees of the district. At the  
17 hearing, the committee shall hear the district's petition and  
18 allow the district trustees and any interested parties an  
19 opportunity to present oral and written evidence. The  
20 committee shall render its decision upon the petition for  
21 exception from dissolution based upon the best interests of  
22 the residents of the district. In the event that the  
23 exception is not allowed, the district may file a petition  
24 within 30 days of the decision with the circuit court. In  
25 that case, the notice and hearing requirements for the court  
26 shall be the same as herein provided for the committee. The  
27 court shall likewise render its decision of whether to  
28 dissolve the district based upon the best interests of  
29 residents of the district.

30 The dissolution of any drainage district shall not affect  
31 the obligation of any bonds issued or contracts entered into  
32 by the district nor invalidate the levy, extension or  
33 collection of any taxes or special assessments upon the  
34 property in the former drainage district. All property and

1 obligations of the former drainage district shall be assumed  
2 and managed by the county, and the debts of the former  
3 drainage district shall be discharged as soon as practicable.

4 If a drainage district lies only partly within a county  
5 that adopts a county stormwater management plan, the county  
6 may petition the circuit court to disconnect from the  
7 drainage district that portion of the district that lies  
8 within that county. The property of the drainage district  
9 within the disconnected area shall be assumed and managed by  
10 the county. The county shall also assume a portion of the  
11 drainage district's debt at the time of disconnection, based  
12 on the portion of the value of the taxable property of the  
13 drainage district which is located within the area being  
14 disconnected.

15 The operations of any drainage district that continues to  
16 exist in a county that has adopted a stormwater management  
17 plan in accordance with this Section shall be in accordance  
18 with the adopted plan.

19 (j) Any county that has adopted a county stormwater  
20 management plan under this Section may, after 10 days written  
21 notice to the owner or occupant, enter upon any lands or  
22 waters within the county for the purpose of inspecting  
23 stormwater facilities or causing the removal of any  
24 obstruction to an affected watercourse. The county shall be  
25 responsible for any damages occasioned thereby.

26 (k) Upon petition of the municipality, and based on a  
27 finding of the stormwater management planning committee, the  
28 county shall not enforce rules and regulations adopted by the  
29 county in any municipality located wholly or partly within  
30 the county that has a municipal stormwater management  
31 ordinance that is consistent with and at least as stringent  
32 as the county plan and ordinance, and is being enforced by  
33 the municipal authorities.

34 (l) A county may issue general obligation bonds for

1 implementing any stormwater plan adopted under this Section  
2 in the manner prescribed in Section 5-1012; except that the  
3 referendum requirement of Section 5-1012 shall not apply to  
4 bonds issued pursuant to this Section on which the principal  
5 and interest are to be paid entirely out of funds generated  
6 by the taxes and fees authorized by this Section.

7 (m) The powers authorized by this Section may be  
8 implemented by the county board for a portion of the county  
9 subject to similar stormwater management needs.

10 (n) The powers and taxes authorized by this Section are  
11 in addition to the powers and taxes authorized by Division  
12 5-15; in exercising its powers under this Section, a county  
13 shall not be subject to the restrictions and requirements of  
14 that Division.

15 (o) Pursuant to paragraphs (g) and (i) of Section 6 of  
16 Article VII of the Illinois Constitution, this Section  
17 specifically denies and limits the exercise of any power  
18 which is inconsistent herewith by home rule units in any  
19 county with a population of less than 1,500,000 in the area  
20 served by the Northeastern Illinois Planning Commission.  
21 This Section does not prohibit the concurrent exercise of  
22 powers consistent herewith.

23 (Source: P.A. 88-670, eff. 12-2-94; 89-445, eff. 2-7-96.)